

LABOUR DEPARTMENT

The 15th March, 1979

No. 11(112)3Lab-79/2497.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of dispute between the workman and the management of M/s. Haryana Iron Steel Rolling Mill, Hissar :—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, LABOUR COURT,

HARYANA, ROHTAK

Reference No. 70 of 1978

between

SHRI MAHAVIR PARSHAD WORKMAN
AND THE MANAGEMENT OF M/S.
HARYANA IRON STEEL ROLLING
MILL, HISSAR.

Present:—

Shri Mahavir Parshad workman in
person with Shri Tek Chand.

Nemo for the management.

AWARD

By order No. ID/HSR/8-N-78/17694, dated 9th May, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Haryana Iron and Steel Rolling Mill, Hissar and its workman Shri Mahavir Parshad to this Court, for adjudication, in exercise of powers conferred by clause (d) of the sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mahavir Parshad was justified and in order? If not, to what relief is he entitled?

On receipt of order of reference, notices were issued to the parties. The workman appeared but the management did not appear. The notices had been fixed on the gates of the factories. The notice was sent through Civil Process Agency. The service was sufficient, the management was proceeded against ex-parte and the case was fixed for evidence of the workman. The workman examined himself as his own witness and stated that he was appointed as a Tongs-man from July,

1976 and was receiving wages at the rate of Rs 360 P.M. and the management turned him out on 9th January, 1978 without any reason, notice or charge-sheet.

I believe the statement of the workman and give my award that the termination of services of the workman was neither justified nor in order. The workman is entitled to re-instatement with continuity of service and with full back wages.

The 21st February, 1979.

NATHU RAM SHARMA,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 445, dated the 27th February, 1979.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 11(112) 3Lab-79/2502.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of dispute between the workman and the management of M/s. Kapoor Industries, Modern Industrial Estate, Bahadurgarh :—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, LABOUR COURT
HARYANA, ROHTAK

Reference No. 116 of 1978.

between

SHRI RAM KISHAN WORKMAN AND
THE MANAGEMENT OF M/S. KAPOOR
INDUSTRIES, MODERN INDUSTRIAL
ESTATE, BAHADURGARH.

Present:—

Shri Rajender Singh for the workman.

Shri M. M. Kaushal for the management.

AWARD

By order No. ID/RTK/26-B/78/29515, dated the 26th June, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Kapoor Industries, Modern Industrial Estate, Bahadurgarh and its workman Shri Ram Kishan to this Court, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Kishan was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties, the parties appeared and filed their pleadings. On pleading of the parties, the following issues are framed on 9th November, 1978 :—

- (i) Whether the workman resigned the job of his own?
- (ii) Whether the dispute is barred by settlement alleged to have been entitled into between the parties ? O.P.M.

And the case was fixed for evidence of the management. On issue No. 2 which was treated preliminary. Thereafter the representative of the workman admitted the settlement. According to settlement, the workman agreed that his dues had been paid on 31st December, 1977. The management agreed to pay a sum of Rs 400/- only to the workman as additional payment as a gesture of good will and in order to maintain normal relation. And the workman has no right to the reinstatement.

In view of the settlement, I give my award that the management is liable to pay a sum of Rs. 400/- only to the workman as a gesture of good-will and in order to maintain normal relations, and thereupon the termination of services of the workman shall be deemed as justified and in order.

The 21st February, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 449, dated the 27th February, 1979.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 11(112)3 Lab-79/2521.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Manohar Lal-Ram Sarup Metal Works Raja Sahib Street, Jagadhri:—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
LABOUR COURT,
HARYANA ROHTAK.

Reference No. 55 of 1978

between

SHRI RAMA WORKMAN AND MANAGEMENT
OF M/S. MANOHAR LAL-RAM SAROOP
METAL WORKS, RAJA SAHIB STREET
JAGADHRI.

Present:—

Shri Surinder Kumar, for the workman.

Shri Sewa Ram, for the management.

AWARD

By order No. ID/Amb./517/77/16847, dated 3rd May, 1978 the Governor of Haryana referred the following dispute between the management, of M/s. Manohar Lal Ram Saroop metal works, Raja Sahib Street, Jagadhri and its workman Shri Rama to this Court, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Rama was justified and in order? If not, to what relief is he entitled?

On receipt of order of reference, notices were issued to the parties. The parties appeared. The representative of the workman stated that the workman has received all his dues in full and final settlement of this dispute and had left away and he does not want to proceed.

I, therefore, give my award that no dispute exists between the parties.

Dated the 21st February, 1979.

NATHU RAM SHARMA,
Presiding Officer,
Labour Court,
Haryana, Rohtak.

No. 443, dated the 27th February, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Labour Court,
Haryana, Rohtak.

No. 11(112)3Lab-79/3225.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Goodyear India Ltd., Ballabgarh:—

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 105 of 1971.

between

THE WORKMEN AND THE MANAGEMENT
OF M/S. GOODYEAR INDIA LTD.,
BALLABGARH.

Present :

Shri Sagar Ram Gupta for the workman.

Shri Jagat Arora for the management.

AWARD

1. By order No. ID/FD/2-B-71/35370—75, dated 29th November, 1971, the Governor of Haryana referred the following dispute between the management of M/s. Good Year India Ltd., Ballabgarh and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the retrenchment of Shri B. K. Juneja with effect from 8th January, 1970 was illegal and unjustified and if so, whether he is entitled to wages for the period from 8th January, 1970 to 15th July, 1970 ?
- (2) Whether the retrenchment of Shri Harish Chander with effect from 2nd December, 1969 was illegal and unjustified and if so, whether he is entitled to wages for the period from 2nd December, 1969 to 6th July, 1970 ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed by my learned predecessor on 27th May, 1972. My learned predecessor tried issues No. 1 and 2 as preliminary:—

- (1) Whether the demands the subject matter of the present reference were first raised on the management and rejected by it before taking up the matter for conciliation ? If not, with what effect ?
- (2) What is the effect of the dismissal of the complaint under section 33-A and the application under section 33-C(2) of the Industrial Disputes Act, 1947 filed earlier by the concerned workman ?
- (3) Whether the retrenchment of Shri B. K. Juneja with effect from 8th January, 1970 was illegal and unjustified and if so, whether he is entitled to wages for the period from 8th January, 1970 to 15th July, 1970 ?

- (4) Whether the retrenchment of Shri Harish Chander with effect from 2nd December, 1969 was illegal and unjustified and if so, whether he is entitled to wages for the period from 2nd December, 1969 to 6th July, 1970 ?

And the case was fixed for the evidence of the workman. Both the workmen examined themselves as WW-1 and WW-2 and closed their case. Then the case was fixed for the evidence of the management. The management examined the Personnel Manager of M/s. Modi Rubber Tyre Factory Shri K. P. Agrawal as MW-1 and closed their case on issue No. 1 and 2. My learned predecessor decided issue No. 1 in favour of the workman and fixed the case for evidence on issues No. 3 and 4. Thereafter Shri B. K. Juneja examined himself as WW-3 and the representative for the workmen closed the case for the workmen. Then the case was fixed for the evidence of the management. The management examined Shri J. P. Kasana (their Production Division Manager as MW-2, Shri K. L. Dhawan Assistant Labour branch as MW-3, Shri Ram Sarup Assistant in the office of the Labour Commissioner as MW-4, Shri K. L. Khurana, Manager, Labour of the management as MW-5, Shri Mool Chand clerk in the office of the Labour Officer-cum-Conciliation Officer, Ballabgarh as MW-6 and closed their case. Then the case was fixed for arguments. Arguments were heard at length.

3. The representative for the workmen stated that the dispute number 2 relating to Shri Harish Chander has been settled in reference number 92 of 1977 and he does not press that dispute. In this reference dispute No. 1 relating to Shri B. K. Juneja stands which require decision. Hence I shall decide dispute number 1 only, as dispute number 2 relating to Shri Harish Chander has been settled in other reference number 92 of 1977 and award has been given in that reference. I have gone through the evidence of the parties, oral as well as documentary. Shri B. K. Juneja WW-3 stated that he was paid wages as a Senior Tube Builders, higher than that of the Tube Builder to the extent of 5 per cent more than ordinary rate paid to Tube Builders and stated that the management took in service S/Shri Dharam Pal and Balkar Singh as Tube Builder after retrenching him whereas

S/Shri Dharam Pal and Balkar Singh were badli workers. He further stated that S/Shri Dharam Pal and Balkar Singh were absentee replacements for working in the place of absentee workman. He further stated that the management had reinstated him,—vide their order, dated 24th June, 1970. MW-2 stated that the workman was working as Tube Builder in department number 56. There was replacement of better automatic machine, hence the workman was got surplus and he was retrenched. Seniority list was displayed and all other requirements were done. Witnesses for the management corroborated MW-2. MW-2 was cross-examined at length. MW-3 stated that the letters sent by the management were not traceable, as old records have been destroyed. MW-4 could not bring all the records summoned as they were not available. MW-5 Shri K. L. Khurana, Manager, Labour of the management proved some documents. MW-6 brought some records but could not bring other records as they were not available. Arguments were heard at length.

4. The representative for the workman argued that Shri B. K. Juneja was a Senior Tube Builder and Exhibit W-A proves that. He relied on documents Exhibit W-2, W-D, W-E, W-A/1 and Exhibit MW-2. I have gone through these documents. Vide Exhibit M-2/11 the workman was appointed as Tube Builder. Exhibit M-2/12 is confirmation letter of his services. In Exhibit W-2/A the workman has been described as Senior Tube Builder. Similarly he has been so described in Exhibit W/B. Vide Exhibit W-C the workman was given punishment on 19th September, 1968. There are other cards in which the workman has been described as Tube Builder, as well as, Repairman. In Exhibit MW-2/15 the workman has been described as Tube Builder from the year 1963 to 1969 except on 28th November, 1966 when he has been described as Repairman. The department is 56/01. Vide Exhibit MW-2/7 the management have informed the Government regarding retrenchment of Tube Builder. Exhibit MW-2/9 is U.P.C. Vide Exhibit M/C the workman has asked for his all dues under section 25(f). Vide Exhibit M-A the workman has been asked to join duties within three days of 24th June, 1970. Similarly the management also asked,—vide Exhibit M-B, dated 13th July, 1970, informing the workman regarding a vacancy arisen in tube

building department. The management reinstated the workman with effect from 15th July, 1970. The only question now remains to be decided is whether the workman is entitled to back wages, if his retrenchment is found illegal. There are several documents which relate to other workmen. The management also informed the Conciliation Officer regarding reinstatement of this workman. Exhibit W-A gives the duties of a senior Tube Builder which are same as of a Tube Builder but in condition to that there are other duties also of a Senior Tube Builder such as responsibility of quality product upto some stage and splice, jam and rejection of defective tubes. A senior tube builder shall be entitled to 5 per cent money over and above the piece work earned during the shift.

5. Although some documents describe the workman as Senior Tube Builder, but I think senior tube builder is not a category by itself, amongst tube builder, some senior tube builder are given some additional duties and additional remuneration. The learned representation for the workman also argued that seniority was ignored while retrenching this workman and he relied on Exhibit W-3, W-4 and W-5. He argued that seniority has not been considered department wise. Because the post of the workman was interchangeable, in other department number 62 also, and that Shri Dharam Pal and Balkar Singh were junior to this workman. He further argued that section 25(f) was not complied with, inasmuch as, Exhibit MW-2/19 is concerned. Exhibit M-2/19 reads that the workman should receive his retrenchment compensation, other dues, as accruable to him under section 25(f) alongwith one month's notice pay but after submitting his usual clearance slip. He argued that the words "After submitting usual clearance slip" is a condition and if a condition is imposed for payment under section 25(f), requirement of law is not met. Rather 25(f) is violated, because 25(f) makes it obligatory that an employee cannot be retrenched until he has been paid retrenchment compensation and one month's notice wages. There is force in the arguments of the learned representative for the workman. If the management has some amount to recover from the workman to be retrenched, they can recover, but the retrenchment compensation and one month's notice wage under section 25(f) has to be paid in full and if that has not been paid in full, I think

25(f) is not complied with, as 25(f) does not make payment conditional, as the requirement of law. He argued that seniority list was not notified. There was not any justification for retrenchment. No machine was installed. No reason of retrenchment was given to the workman and that no notice was given to the Government. And that automatic machine was not installed, as it has not been described in the notice.

6. The learned representative for the management argued that the workman was a tube builder and he has been described as tube builder in several documents. Exhibit WW-3 and Exhibit M-A describe the workman as tube builder only. He further argued that tube builder is a category by itself and includes no other workman having any other designation within this category. He further argued that Shri Khan was not a tube builder. He was in the flap department number 62. He was a Cureman. He further argued that the reasons of retrenchment have been given in the seniority list and the notice has been sent to the Government. He further argued that if reasons for retrenchment has not been given in an individual notice sent to the workman, it is not fatal, when reasons for retrenchment have been given in notice to the Government and in the seniority list.

7. The learned representative for the workman cited 1970 II LLJ page 179, 1961 I LLJ 42, AIR/1960 Orissa 205, 1967 II LLJ page 23, 52 FJR 451 and page 441. The learned representative for the management cited 1956 II LLJ 227, 1970 II LLJ 429, 437, 37 FJR 451. He further argued that AIR 1960 page 205 is not applicable to the facts of this case. He also cited 1963 II LLJ Manu v. Daniwal.

8. I have considered all the facts of this case, as well as law and have gone through the rulings cited. Although the workman has been described as tube builder in a good number of documents and a senior tube builder in some documents but I think if the workman has been retrenched considering the seniority from amongst tube builders, I think the principle of seniority has not been violated, as senior tube builder is also one from amongst tube builders. He is described senior tube builder being senior amongst tube builders with some additional duties

and additional remuneration. The learned representative for the management argued that the workman has not taken the point of conditional payment of retrenchment compensation and one month's wages under section 25(f) in his pleadings nor in his evidence and, therefore, this argument of the learned representative for the workman cannot be considered and has no weight. Ex. MW-2/19 is a document of the management. It is in evidence. As far as pleadings is concerned, no strict rules of pleadings applied to the proceedings in the Industrial Disputes. Moreover law does not require to be pleaded. Ex. M-2/19 has asked the workman to receive his dues under section 25(f) after submitting his usual clearance slip, hence I think the requirement of section 25(f) (a) has not been complied with. As far as, notice to the Government and display of seniority list are concerned, the management have complied with this requirement of law in substance as well as in detail and if the reasons for retrenchment are not given in the notice sent to the workman, I agree with the learned representative for the management that it is not fatal, because the reasons have been given in the seniority list and, as well as, in the notice sent to the Government.

Ex. M-2/19 is a document of the management and the management cannot escape from it. The management themselves have adduced this document in their evidence. Hence I think that section 25(f) (a) has not been complied with, as is evidence from Ex. M-2/19. I, therefore, hold that the retrenchment of Shri B. K. Juneja was illegal and the workman Shri B. K. Juneja is entitled to wages for the period from 8th January, 1970 to 15th July, 1970. I decide issue No. 3 accordingly.

(10) I decide issue No. 2 against the management, complaint under section 33 A of the ID Act has not been decided on merits. It has been held as unmaintainable as per law. Similar is the case with application under section 33-C(2) of the ID Act. These applications and orders thereon do not, but this reference. Issue No. 4 needs no decision, as discussed above.

While answering the reference, I give my award that the retrenchment of Shri B. K. Juneja, with effect from 8th January, 1970 was illegal and he is entitled to wages for the period from 8th

January, 1970 to 15th July, 1970. Dispute No. 2 relating to Shri Harish Chander does not exist.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Dated the 13th February, 1979.

Endorsement No. 193, dated the 3rd March, 1979.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)3 Lab-79/3226.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. (XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Haryana Paper Mills Industrial Township Faridabad and Shri Nazir Ahmed workman M/s. Delhi Pulp Industries, Industrial Township, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 105 and 115 of 1976
between

SHRI KISH NATH WORKMAN AND THE
MANAGEMENT OF M/s. HARYANA PAPER
MILLS, INDUSTRIAL TOWNSHIP FARIDA-
BAD AND SHRI NAZIR AHMED WORKMAN
AND THE MANAGEMENT OF M/s. DELHI
PULP INDUSTRIES INDUSTRIAL TOWNSHIP
FARIDABAD.

Present:

Shri P. K. De, for the workman.

Shri R. C. Sharma, for the management.

AWARD

1. By order No. ID/FD/859-C-76/21516, dated the 23rd June, 1976 and No. ID/FD/861-D-76/21451, dated the 23rd June, 1976, the Governor of Haryana, referred the following disputes between the management of M/s. Haryana Paper Mills, Industrial Township, Faridabad and its workman Shri Kish Nath and of M/s. Delhi Pulp Industries, Industrial Township, Faridabad and its workman Shri Nazir Ahmed, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the dismissal of Shri Kish Nath was justified and in order? If not, to what relief is he entitled?

Whether the dismissal of Shri Nazir Ahmed was justified and in order? If not, to what relief is he entitled?

2. On receipt of the orders of references, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties the following issues were framed in reference No. 115 of 1976 on 24th January, 1977:—

1. Whether the termination of services of the workman concerned Shri Nazir Ahmed was justified and in order? If not, to what relief is he entitled?

And the following issue was framed in reference No. 105 of 1976 on 19th November, 1976:—

1. Whether the termination of services of the workman concerned was justified and in order? If not, to what relief is he entitled?

3. In both the references vires of the domestic enquiry was tried first. In reference No. 115 of 1976, I held the enquiry vitiated,—vide my order, dated 6th March, 1978 and the reference No. 105 of 1976, I held the enquiry vitiated,—vide my order, dated 10th October, 1977. Then the case was tried on merits.

The management examined Shri Mahi Chand Gupta their Head Time Keeper as MW-2 who stated that on 24th October, 1975 at about 30 p.m. overtime payment was disbursed by the cashier Shri Sita Ram. Shri Onkar Sharma and P. O. Narain Joshi were also present. 30-40 persons were in queue. These workmen were also there when their turn came to receive overtime

he offered, but they refused to receive stating that he shall receive in the end. He also told them to return to their work after receiving overtime. He again repeated the same. The workman then replied as to who was he to tell them that and began to abuse him by Mother and Sister. They remained up to 5-00 p.m. A quarrel was about to break. He informed Shri Sethi about 4-30 P.M. The police also reached there. He further stated that these workmen were trying to collect subscription of the union forcibly. In cross-examination he denied that he was hiring goondas to disrupt gate meetings and that this witness was not collecting any money for any purpose. He denied that he got these workmen arrested and that he went to police chowki. He further stated that these workmen held any office of the union. He admitted that these workmen were also collecting subscription from the workmen but did not know for what purpose. He further admitted in cross examination that no workman complained to him in writing, and that the police had reached there on a telephone by the management. MW-3 stated that Shri Kish Nath abused and Shri Nazir Ahmed was with him and he was obtaining signatures on the receipt of overtime. He also stated that these workmen were collecting subscription. He further stated that Shri Kish Nath was working in East India Cotton Mills till about 2-3 months ago. In cross examination he admitted that gate meetings were also held prior to this occurrence. The management laid off. He could not tell whether some workers were arrested or not during lay off or prior to that. He expressed his ignorance regarding any case between the management and the workman in any court. He admitted that these workmen used to collect subscription for the union and further admitted that they might be leaders of the union. He further stated that he did not give anything in writing to the management regarding misbehaviour of this workman. He denied the suggestions that the management was trying to form a union of puppets. MW-4 Shri Mohan Lal deposed that at the time overtime was being disbursed these workmen were also there to receive overtime. They refused to receive. Then abuses began. He further told that he did not remember the specific abuses and that these two workmen abused. These workmen had asked him also to pay subscription but he refused. In cross examination he stated that the management had asked him to attend this court for giving evidence but he had told

truth, although the management had asked him to appear as their witness. He admitted that MW-2 had called him to give evidence. MW-5 stated that these two workmen abused by sister and told that they would crush them. He heard abuses only as he was busy in disbursing overtime. In cross examination he stated that when there was arrest of workmen he never went to Ballabgarh. The management closed their case. Then the case was fixed for the evidence of the workman. It was at this stage that the representative for the management prayed for consolidation of these two references and the representative for the workman had no objection. Then these references were consolidated and it was ordered that the evidence recorded in one shall be read as evidence in the other. WW-4 stated that he was also there to receive overtime and no altercation took place between these workmen and any officer of the management. These workmen were also present but after receiving the overtime they went to their work. He also stated that a good number of workmen were expelled from the factory by the management which included only leaders of the union. WW-5, Shri Ajbir Singh deposed that Shri Nazir Ahmed was the President and a union was formed. Shri Kish Nath was Vice-President and Shri Om Parkash was General Secretary of the union. The management had terminated the services of all the employees leaders of the union. He also deposed that he was also in the queue to receive overtime and Shri Kish Nath was two persons ahead of him in that queue. Both of them received overtime and left the place. Shri Nazir Ahmed had received over time earlier and had left the place earlier and he had sent Nazir Ahmed outside the gates of the factory as he was off duty. The workman tendered one Shri Ram Piara as WW-6. He was cross examined. The workman closed their case. I have heard the arguments for the parties. It is in the case of the management that police had reached the factory on that day. It is also in evidence that the management has turned out of service several union leaders and a good number of trade union activists. It is also in evidence that there was a strike in the factory which lasted for about 3½ months. MW-4 could not give out the specific abuses and has stated that abuses began. Although he stated that Shri Kish Nath and Shri Nazir Ahmed abused but he could not state as to whom they abused. He admitted that Shri Mahi Chand Head Time Keeper had called him to give evidence on the date, he appeared as

witness as MW-4 and that the management had asked him for giving evidence. MW-3 stated that Kish Nath abused and Shri Nazir Ahmed was with him. He did not say that Shri Nazir Ahmed also abused. When several workmen were arrested, there might have been some police cases, results of the case or police investigation have been withheld by the management. Had the results of criminal case or police investigation been in support of the case of the management, the management would have produced them. Trade union activity of the workmen were going on. The charges levelled against the workmen are very doubtful in these circumstances and more particularly so, when the management has victimised several other trade union leaders, as is in evidence, which the management has not rebutted. In these circumstances, I am of the view that the charges have not been brought home to these workmen and, therefore, I am of the opinion that their services have been terminated in order to victimise these workmen for their trade union activities. These two workmen were President and Vice President of the union. MW-3 has admitted prior to the occurrence, gate meetings were held at the gate of the management and there was some lay off earlier to that occurrence. He had admitted that these persons used to collect subscription for the union and might be leaders of the union. There were court cases also between the management and the workmen. A consideration of the evidence leads me to decide issue No. 1 against the management. I decide issue No. 1 against the management. While answering the reference, I give my award that the termination of services of both the workmen were neither justified nor in order. They are entitled to reinstatement with continuity of service and full back wages.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

The 13th February, 1979.

No. 105, dated the 3rd March, 1979.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.